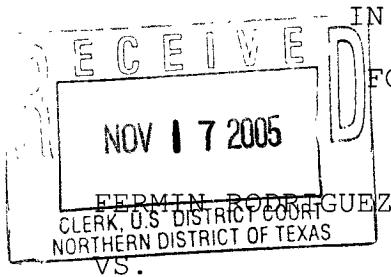


ORIGINAL

8-05 CV 2321-N



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DOUGLAS DRETKE

§

§

CIVIL ACTION NO. 1:05cv497

§

MEMORANDUM ORDER REGARDING TRANSFER

Petitioner Fermin Rodriguez, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Institutional Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Discussion

Petitioner was convicted of aggravated robbery in the 204th Criminal District Court of Dallas County, Texas in 2000. Petitioner was sentenced to a term of 37 years imprisonment.

Petitioner appealed his judgment of conviction. On October 25, 2001, petitioner's conviction was affirmed. Petitioner did not file a petition for discretionary review. Petitioner brings this petition challenging the validity of his conviction.

Pursuant to 28 U.S.C. § 2241(d), a petitioner may bring his petition for writ of habeas corpus in the district court for the district wherein such person is in custody or in the district court for the district within which he was convicted. Section 2241(d) further provides that the district court in the exercise

of its discretion may transfer the action to the other district in the furtherance of justice.

Petitioner is currently confined at the Stiles Unit in Beaumont, Texas. However, petitioner was convicted and sentenced in Dallas County, Texas. Pursuant to 28 U.S.C § 124, Dallas County is in the Dallas Division of the Northern District of Texas.

While jurisdiction is proper in the Eastern District of Texas because the prisoner is confined within the district court's territorial boundaries, the court has considered the circumstances and has determined that the interest of justice would best be served if this petition were transferred to the division in which the petitioner was convicted. Under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

Since petitioner complains of a conviction which occurred in the Dallas Division of the Northern District of Texas and all records and witnesses involving this action may be located in the Northern District, the transfer of this action to such division would further justice. Therefore, it is the opinion of the undersigned that this petition should be transferred to the

United States District Court for the Northern District of Texas,
Dallas Division. An Order of Transfer so providing shall be
entered in accordance with this Memorandum Order.

SIGNED this 1 day of September, 2005.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE